

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL NO. 3:10CV292-MOC-DSC**

ARLESTER EL JONES,)	
)	
Plaintiff,)	
)	
vs.)	<u>ORDER</u>
)	
DOLE FOOD COMPANY, INC., et. al.,)	
)	
Defendants.)	
)	
)	

THIS MATTER is before the Court on pro se Plaintiff's "Motion to Compel Discovery" (document #58), "Motion to Deem Admitted" (document #59), and the parties' associated briefs and exhibits. See documents ## 62-64.

In their brief, Defendants establish that the discovery Plaintiff seeks in his Motion to Compel has already been denied by the Court or provided by the Defendants. Accordingly, Plaintiff's "Motion to Compel Discovery" (document #58) is denied as moot.

In his "Motion to Deem Admitted" (document #59), Plaintiff asks the Court to deem admitted the contents of the investigative file prepared by the Equal Employment Opportunity Commission ("EEOC") during the course of its administrative process. Specifically, Plaintiff asks the Court to treat as admitted the allegations contained in his administrative charge.

As Defendants point out, Plaintiff has never served a request for admissions asking Defendants to admit or deny the truth of the allegations contained in the investigative file. Moreover, it is well established that "private-sector employees not only had the right to a de novo judicial consideration of their discrimination claims without regard to the EEOC's finding of reasonable cause, but also that they were **unable** to use the EEOC's finding to compel a finding of

discrimination in the district court.” Laber v. Harvey, 438 F.3d 404, 420 (4th Cir. 2006) (emphasis added) (citing McDonnell Douglas Corp. v. Green, 411 U.S. 792, 93 S. Ct. 1817 (1973); Chandler v. Roudebush, 425 U.S. 840, 844-45, 96 S. Ct. 1949 (1976)). Accordingly, for this and the other reasons stated in Defendants’ brief, Plaintiff’s “Motion to Deem Admitted” (document #59) is denied.

NOW THEREFORE, IT IS ORDERED:

1. Plaintiff’s “Motion to Compel Discovery” (document #58) and “Motion to Deem Admitted” (document #59) are **DENIED**.
2. The Clerk is directed to send copies of this Order to the pro se Plaintiff; to defense counsel; and to the Honorable Max O. Cogburn, Jr.

SO ORDERED.

Signed: July 11, 2011



David S. Cayer
United States Magistrate Judge

